

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 21205 of 2016 (O&M)

Date of decision: 07.10.2016.

Sachin Rana and others

..... Petitioners.

Versus

State of Haryana and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MS. JUSTICE LISA GILL**

Present: Mr. Shalender Mohan, Advocate, for the petitioners.

S.S. SARON, J.

This petition has been filed in the nature of a public interest litigation by local residents and shopkeepers of New Palam Vihar, Gupta Colony and Nihal Colony area who are residing near the Bajhgera Railway Crossing, Palam Vihar, Gurgaon. The petitioners, it is submitted, are about more than 200 families who are residing in the said area and their life has been going on in a smooth manner. The petitioners, in the month of December 2015, came to know that the respondents were going to construct a railway over-bridge (ROB) on the Bajhgera Railway Crossing, Palam Vihar. The length of this bridge, it is mentioned, is 920.91 metres. The bridge is to be constructed at an estimated cost of Rs.40.25 crores. It is to be built on pillars. Feeling aggrieved on account of the construction that is to be carried out, their lives would be affected.

They have, therefore, approached this Court for restraining the respondents from constructing the railway over-bridge (ROB) on the Railway Crossing of Palam Vihar Bajhgera Road.

According to the petitioners, construction of the railway over-bridge in fact is not required. They have prayed for issuance of a writ in the nature of mandamus directing the respondents to instead construct an under-bridge if it is required. A further prayer has been made for directing the respondents to make the road wide in full shape, that is, 121 feet at the Railway Crossing, Palam Vihar, Bajhgera Road, in which case there would be no need for the construction of a railway over-bridge. A further prayer has been made for directing the respondents to decide the objections of the petitioners and consider the same in an appropriate manner.

We have given our thoughtful consideration to the matter and have gone through the records. The site plan (Annexure P8) has been placed on record which we have perused. A perusal of the said site plan (Annexure P8) shows that an over-bridge is to be constructed over the railway line. Along side the proposed over-bridge, there are commercial shops and residential area. It is the admitted case of the petitioners that there is a railway gate at present at the railway crossing.

In the circumstances, we are of the view that the construction of the railway over-bridge would facilitate the smooth flow of traffic. The gate at the railway crossing closes when trains have to pass. This leads to congestion when the gate is closed and after it opens when the trains have passed there are traffic jams invariably. Therefore, in the larger public interest we are of the view that the construction of the railway over-bridge would be beneficial for the area and also for smooth flow of the traffic.

The question whether an under-bridge would be better than an over-bridge is for the experts. This Court is not to venture into the question

as to whether an under-bridge would be better or an over-bridge. This clearly is the domain of the expert bodies with whose decisions the Courts seldom interfere unless these are shown to be perverse or irrational. Perverse in the context symbolizes a decision which is not supported by any evidence or material. Irrational would mean a decision that is absurd or illogical. No such material has been placed on record to show that the decision to construct an over-bridge instead of an under-bridge is in any manner improper much less being perverse or irrational.

The question regarding the consideration of objections, we leave it open for the petitioners to pursue the same in accordance with law and no directions in this regard are required to be issued.

In view of the above facts and circumstances, there is no merit in the petition and the same is accordingly dismissed.

(S.S. SARON)
JUDGE

(LISA GILL)
JUDGE

07.10.2016
Ramesh

Note:

1.	Whether reasoned/speaking	:	Yes
2.	Whether reportable	:	No